

**TOWN OF MANHATTAN**  
**Regular Meeting**  
**Thursday, February 09, 2023**  
**MINUTES**

Mayor Glen Clements called the meeting to order in the Town Meeting Room at 207 S. 6<sup>th</sup> St. at 7:00 P.M. Present were Council Members Ryan Engbretson, Betsy Mancuso, Josh Powell, and Morgan Taylor. Also present were Town Attorney Jane Mersen, Town Planner Scott Hazelton, Chief of Police Dennis Hengel, Sergeant Owens, and Clerk/Treasurer Pam Humphrey. Seventy plus members of the public were present. Fourteen members of the public were present by Zoom.

**PUBLIC COMMENTS:**

*Written Comment from Lexton Moy, 202 S 5<sup>th</sup> St:* He asked about the process to get an item on the agenda.

*Callie Hamilton, 505 Milwaukee:* She asked for clarity on when public comment is allowed on an agenda item.

*Lindsay Schack 302 N Broadway:* She asked if there would be a response to public comments.

*Rocky Hamilton, 505 Milwaukee:* He stated that in the past, comments have been responded to.

**WRRF PROJECT UPDATE:**

*Mayor Clements:* The team has submitted responses to the comments from DEQ. They are still waiting for DEQ permit approval. The project is on schedule. It will go out to bid this spring with construction this summer.

*Wendy Meier, 385 Northwest Passage Ln:* She asked for an update on the timeline.

**RAISE GRANT INFORMATION AND PROPOSAL:**

Motion- Engbretson; Second- Mancuso; Vote- Unanimous: Motion passed to have Hyalite Engineering prepare a RAISE Grant application and allow the Mayor to sign the contract.

*Scott Hazelton, Town Planner:* He explained that RAISE is a bucket of funding for transportation projects. He presented a proposal to apply for a RAISE planning grant for a new Transportation Plan. The proposal is to authorize him to work with the Town and the granting agency to apply for a planning grant for a new Transportation Plan.

He would request \$58,000, which is 80% from the grant. The Town would need to match 20%, for a total cost of \$85,000 for the Transportation Plan. His proposal is for \$7100 to write the grant as a separate cost. It is a competitive grant, but this is not a huge amount.

Council discussed how long it has been since the Transportation Plan has been updated, as well as the cost of doing a new plan even without a grant.

**LEGISLATIVE UPDATE:**

*Scott Hazelton, Town Planner:* He serves on the Montana Association of Planners legislative board. There are a lot of land use and development statutes in the legislature this year. He gave an overview of the bills that could affect local governments.

SB245: This bill would require certain municipalities to allow multifamily and mixed-use development. This is for cities with a population over 7000. It may not impact Manhattan. It may apply if the county population is also considered.

SB268: This would allow short-term rentals in every residential zone. This will impact prices long term if every residential unit could become a commercial property. It is concerning from a planning perspective.

SB178: This bill is tied to cryptocurrency or data centers. If businesses were to go in under these headings, there could be no zone amendments or re-zones for commercial or industrial properties in the area until the businesses close.

HB337: This bill would require all incorporated municipalities and areas with public water and sewer to have a minimum lot size of 2500 sf and prohibit setbacks. It is still in committee; it is expected to go to the floor. The current minimum lot size in Manhattan is 10,000 sf and grandfathered 7000 sf lots in the Original Plat. This removes the local government's ability to govern their own communities. The government could still regulate the use but not the lot size.

*Buck Buchanan, 315 N 5<sup>th</sup>:* He asked if that would undo zoning in entire state?

#### **ORDINANCE REQUIRING COMPLIANCE WITH FEDERAL ABORTION LAWS:**

Motion- Engbretson; No second: Motion failed to not further pursue this sample/draft ordinance or direct the Town Attorney to do any work in review on it.

Motion- Powell; No second: Motion failed to pursue this ordinance and evaluate it with the Town Attorney to make it best fit our Town.

Motion- Powell; Second- Mancuso: Vote- 2 for (Powell, Mancuso), 2 against (Taylor, Engbretson), Mayor voted Against: Motion failed to continue to pursue this ordinance and work with the Town Attorney and find a fit for this Town.

*Mayor Clements:* He stated that the ordinance provided is an example or sample ordinance. It is on the agenda to see if the Council would like to move forward with an ordinance on this subject matter. He discussed the process of passing an ordinance and provided a written outline for the audience. Manhattan ordinances are drafted by the Town Attorney. She has not commented to the Council on this sample ordinance prior to the meeting. Public comment will be taken on this item, with each speaker getting up to three minutes to talk. After public comments, they will move on to Council discussion and decision.

*Councilman Powell:* He stated that he is presenting an ordinance for the Town Council to consider. It is an ordinance to comply with the federal abortion laws in Manhattan. He gave the history of the federal laws. He stated what he believes that there is value in every human life and that life begins at conception. He gave examples of what is happening in the country regarding abortion. The ordinance is not a specific ban on abortion but does have the same result by requiring compliance with the federal statutes on abortion. He sees the ordinance as an act of protection for the people of Manhattan. He asked the Council to support this ordinance.

Public Comments:

*Mark Lee Dickson, Director of Right to Life of East Texas and Founder of Sanctuary Cities of the Unborn Initiative:* He stated that he is the only private citizen sued and had his case dismissed by the Supreme Court of the United States. Sixty-five cities and two counties in US have passed ordinances with the intent to keep abortion out of their communities. He provided the sample ordinance. He stated that he has checked with the Attorney General of Montana to assure that the ordinance is in accordance with the state law. He explained the history of the federal law. The ordinance is crafted in a way that the government does not enforce penalties, it allows citizens to file a lawsuit against anyone who provided the prohibited items. If passed the way it is, a private attorney has provided a letter to defend the Town if they are involved in a lawsuit at no cost to the Town.

*Rocky Hamilton, 505 Milwaukee:* He spoke in opposition to the proposed ordinance. The Montana Constitution protects the right to privacy. This ordinance violates that right. Montana is only state that has the right to privacy.

*Wendy Meier, 385 Northwest Passage Ln:* She spoke in opposition to the proposed ordinance. The Town does not need to regulate what is already federal law. She stated that there are things that need to be done in Manhattan that support the community instead of a Councilperson's beliefs.

*Jean Munch, 407 Hemlock:* She spoke in opposition to the proposed ordinance. This will divide the community.

*Craig Bergstedt, 218 S Broadway:* He spoke in opposition to the proposed ordinance. He appreciated the Council for stepping up to represent the town. He asked the Council to respect the women of the Town and their healthcare choices.

*Connie Boucher, 218 S Broadway:* She spoke in opposition to the proposed ordinance. She agrees with separation of church and state. The federal law is old, from when women did not have a right to vote.

*Callie Hamilton, 505 Milwaukee:* She spoke in opposition to the proposed ordinance. She is hoping that the Town Attorney will speak on this item. She asked the Council to work on the problems in Town. She read a comment from someone that had to leave the meeting that is also opposed and asked the Council not to use their tax money for this type of personal religious agenda.

*Toby Goodman, 20 Culver Place:* He spoke in favor of the proposed ordinance. If life begins at conception, then abortion is murder. He wants to see the community provide help instead of abortions.

*Suzanne Hellman 204 Pine Street:* She spoke in opposition to the proposed ordinance. She stated that pro-life does mean that others cannot be allowed their choices.

*Deb Hanson, 100 Saddle Ridge Rd:* She spoke in opposition to the proposed ordinance. She stated that reproductive choices and privacy are important to constituents she has spoken to.

*Ryan Miller, 707 Madison:* He spoke in opposition to the proposed ordinance. He stated that no law or ordinance would apply to all faiths. Elected officials are asked to look at the municipality and needs of the community.

*Randy Mack, 309 N Broadway:* He spoke in opposition to the proposed ordinance. He agrees with what has been said by others. It does not need to be done and is too political.

*Lindsey Ross, 6015 Kimm Rd:* She spoke in opposition to the proposed ordinance. This is too polarizing to the Town and will widen the gap. She asked the Council to focus on things that are important to everyone in the community.

*Theresa ?, N RR/N 4<sup>th</sup> St:* She spoke in favor of the proposed ordinance. Babies are a unique combination of DNA. There needs to be a focus on educating youth that they are all responsible for their own choices.

*Buck Buchanan, 315 N 5<sup>th</sup>:* He spoke in opposition to the proposed ordinance. The United States is the only country that has tried to be multi-racial, multi-lingual, multi-religious, and multi-ethnic. This ordinance flies in the face of real freedom. Asking the people to police each other is fascism. There are other things that the people would like the Council to do.

*Lindsay Schack, 302 N Broadway:* She spoke in opposition to the proposed ordinance. She reminded the Council members that they work for the people. This is a divisive conversation about a highly stressful topic. It will create legal liability and more divisiveness. She honors personal standing and faith, but not when making ordinances for the Town.

*Dakota Davis, 265 Springhill Rd, Bozeman:* He spoke in favor of the proposed ordinance. Scientifically, there is life at conception. Murder is not a matter of privacy. Council members are civil servants. Everyone will be held accountable. The country was founded as a Christian nation.

*Mariah Dahl, 1104 S Montana Ave, Apt G8, Bozeman:* She spoke in favor of the proposed ordinance. She has personally seen the effects of the abortion pill. Adding the trauma of killing the baby of a rape survivor will not help someone heal from the trauma of rape. She lives with the trauma of her decisions and does not feel support, just shame. There need to be resources rather than killing babies.

*Al Brody, 108 N 4<sup>th</sup>:* He spoke in opposition to the proposed ordinance. This is not the law of the land. This law doesn't really apply now. It is troubling that this is enforced by neighbors launching lawsuits. There is nothing preventing launching a lawsuit against others now. He asked how this could be policed.

*Gretchen Engbretson, 206 S 5<sup>th</sup>:* She spoke in opposition to the proposed ordinance. She has listened to the people speaking and does not think that the person from Texas cares about Manhattan. The Town has limited resources already. She urged the Council to think about the validity. It is embarrassing that someone that does not live in the community is trying to tell people what to think.

*Erica Sebring, 8640 Poelman Ln:* She spoke in opposition to the proposed ordinance. She agrees with what many have already said. She described a process that will be used to score trauma of people when they were children. Bodies react to trauma. Denying a woman's right to make decisions about her body is trauma.

*Dan Ryan, 314 S 5<sup>th</sup> St:* He spoke in opposition to the proposed ordinance. He does not favor abortion, but he does not have a right to tell someone they can't do it just because they believe differently. The Council does not have right to deny the community access to abortion just because of their beliefs.

*James Short, 210 Spruce St:* He spoke in opposition to the proposed ordinance. Manhattan is a close-knit community. The language in the ordinance encourages division. He asked if the Town could afford the consequences of this ordinance. The Council should focus efforts on resources that help neighbors. The ordinance will not add to the community.

*Joel Carlson, 1117 Spring Brook, Bozeman:* He stated that there are not just two camps of people. Everyone believes in something. This is a religious battle.

*Lea Miller, 6690 Frontage Road:* She spoke in favor of the proposed ordinance. The Constitution says life, liberty, and the pursuit of happiness. It is sad that people do not want to fight for a life. Every life should be valued.

*Nancy Clark, 6324 Pleasant St:* She spoke in favor of the proposed ordinance. This is a big issue and uncomfortable to discuss. It has to do with life and honoring people. She does not categorize all abortion as a gift to women. The discussion is worth having.

*Robert Barksdale, 105 N 4<sup>th</sup> St:* He spoke in favor of the proposed ordinance. He stated that he believes it is important to speak for the unborn. He is encouraged by the diversity in the Town. He thanked everyone for speaking and sharing beliefs.

*Sarah Simser, 5155 Yadon Rd:* She spoke in opposition to the proposed ordinance. Abortion is a complicated and divisive issue. She asked the Council to do more community building instead of something so divisive.

*Michelle Brody, 409 W Gallatin:* She spoke in opposition to the proposed ordinance. She stated that she is a health coach for women and hormonal well-being for conceiving and not-conceiving. Personal decisions cannot be regulated.

*Missy Short, 210 Spruce St:* She spoke in opposition to the proposed ordinance. There is a great variety of people and beliefs. The ordinance does not represent everyone in the Town. It puts a label on the Town.

*Madeline Hemenway, 206 Pine St:* She spoke in opposition to the proposed ordinance. This is separation of church and state. It is asking people to snitch on neighbors and family members. The ordinance is not a representation of everyone's beliefs.

*Buck Buchanan, 315 N 5<sup>th</sup> St:* He stated that everyone in the audience should be proud of themselves for their conduct regardless of what side they are on.

*Troy Bertelson, Bozeman:* He spoke in opposition to the proposed ordinance. He is skeptical of outside influence trying to change Montana. It looks like Manhattan is being used as a test site for Montana.

*Josh Ryan, 3481 Pass Creek:* He spoke in favor of the proposed ordinance. He stated that what brought a lot of people to this area are the core values. Life is a core value. Ideas from the outside are what made America.

#### Written Comments

*Alexandra Stowasser, 114 N 7<sup>th</sup> St:* Opposed

*Lexton Moy, 202 S 5<sup>th</sup> St:* Opposed

*Michael Vermillion, 123 N Railroad Ave:* Opposed

*Carol Buchanan, 315 N 5<sup>th</sup> St:* Opposed

*Eleanor Mest, 317 S Broadway St:* Opposed

*Lydia Elgas, 310 Cedar St:* Opposed

*Mike and Gloria Edwards, 210 N 7<sup>th</sup> St:* Opposed

*Anna Edwards, 206 N 7<sup>th</sup> St:* Opposed

*Teresa Deyton, 302 S 5<sup>th</sup> St:* Opposed

Additional Public Comments:

*Mark Lee Dickson, Director of Right to Life of East Texas and Founder of Sanctuary Cities of the Unborn Initiative:* He stated that seven cities in Texas were sued by the ACLU and were represented by Jonathan Mitchell. All those cases were won by the cities. The Lubuck, TX Mayor and City Council chose not to use Jonathan Mitchell to represent them. He did assist and the City won. Lebanon, OH chose to hire additional Council even though they were represented by Jonathan Mitchell. He was checking if the Town must use the Town Attorney to draft ordinances. That is not required in Montana or Manhattan Code.

*Wendy Meier, 385 Northwest Passage Ln:* She clarified that she was not directing anything bad toward Mr. Dickson for not being from here. She doesn't always feel heard. She was shocked that he was welcomed with open arms when she has not had that same treatment. She questions the ordinance.

*Connie Boucher, 218 S. Broadway St:* She stated that she is a native Montanan. She does not believe that this ordinance should be placed before the Town no matter where it originated from. It will draw a lot of bad attention to the community. The decision belongs to the people, not the Town Council.

*Gretchen Engbretson, 206 S 5<sup>th</sup> St:* She stated that people have been talking about religion and choices. Pro-choice is not necessarily pro-abortion. This ordinance is about taking away the choice from the people.

*Chris Meier, 385 Northwest Passage Ln:* He spoke in opposition to the proposed ordinance. There is enough division. The country cannot even prosecute illegal drugs through the mail. Efforts and finances should be put toward other things that the Town needs.

*Callie Hamilton, 505 Milwaukee:* She asked the Council to please be responsible with the community's funds. Ordinances cost a lot of money. Other communities may not have lost their lawsuits, but they still spent a lot of money on legal counsel just to have the ordinances. The Council has voted on things because of liability before.

*Beth Ward, 501 E Washington Ave:* She spoke in opposition to the proposed ordinance. This is not about money; it is about control. Religious efforts need to be made outside of the government. She asked the Council to not use the government to make people behave a certain way. Montanans appreciate independence.

Attorney Comments:

*Jane Mersen, Town Attorney:* She stated that she has not has as much time to research issue as the Sanctuary Institute has. The ordinance as drafted by them is illegal. She thinks it is in violation of the Montana Constitution. It is also in violation of the case of *Armstrong v the State*. She knows that the Town will be sued for it. Based on the cases she has read; the court will find that the Town is trying to legislate moral or religious beliefs. The offer of free legal council should have nothing to do with a decision on this ordinance. The Council needs to be aware of the aggressive tactics that have been used by the Sanctuary group. Drafting the ordinance and publishing it to make it look like it already passed is misleading. The fact sheet is not factual at all. The

fact sheet does not mention the Montana Constitution or that Montana's right to privacy is far stricter than even the federal right to privacy. The laws in Texas are not the same as the laws in Montana. If Manhattan considers or adopts this, it will be the test city and embroiled in litigation for years. She doesn't think it will be successful. The issue is divisive, and she doesn't see a reason for the ordinance. Manhattan already has an ordinance on the books that requires people to follow the federal and state laws. If the Council were to vote to direct her to craft this ordinance to comply with Montana law, everything would have to be taken out of it to make it legal.

**Additional Public Comments:**

*Mark Lee Dickson, Director of Right to Life of East Texas and Founder of Sanctuary Cities of the Unborn Initiative:* He stated that he spoke to the Attorney General's office today. He asked them for wise council on this ordinance. He believes it is legal and states that the Attorney General's office believes is legal. The Montana Attorney General has signed two letters this year disagreeing with the Biden Administration interpretation of the federal law.

*Beth Gorder, 101 W Washington:* She spoke in opposition to the proposed ordinance. The issue is up to the states can decide. The legal precedence set in the Montana Supreme Court said that abortion is protected under the Constitution's right to privacy clause.

**Council Discussion:**

*Councilman Engbretson:* He asked Jane about rules of procedure. Council rules and procedure says that a draft ordinance must be written by the Town Attorney.

*Pam Humphrey Clerk/Treasurer:* She stated that this is not a Town ordinance, it is a sample ordinance of the subject matter provided by Dickson.

*Jane Mersen, Town Attorney:* She confirmed that it was an example.

*Councilman Powell:* He asked if there is a law on the books that requires people to follow federal and state law.

*Mayor Clements:* He read Manhattan Code 3-1-2: No provision contained in this Title shall be construed so as to license any trade, business, occupation, vocation, pursuit, profession, or entertainment prohibited by any law of the United States, of the State, or prohibited by the provisions of this Code or other ordinance of the Town.

*Councilman Mancuso:* She asked if the Town could do an ordinance that would prohibit abortion clinics.

*Jane Mersen, Town Attorney:* She stated that the Council could zone them out, but it would probably be litigated. It could be voted on by the people. She explained that process.

*Councilwoman Mancuso:* She stated that as the only woman on the Council, abortion has impacted her life. It is sanitized brutality on the woman and the child in the womb. This ordinance does put a road block to installing any mechanisms of abortion in the Town. There may be some things in it that could be reviewed. She has heard from the people that they are opposed. It does impact Manhattan women, families, and unborn children. Her position is that the unborn need to be protected.

*Councilman Taylor:* He stated that he agrees with Mancuso, but this may not be the best route.

*Councilman Engbretson:* He stated that the labeling this does to the Town would not be healthy. It could affect things greatly from enrollment to housing prices and other things. It is not okay to label the people or the Town as a sanctuary for the unborn. The ramifications are not understood at this time.

*Councilman Powell:* He thanked everyone for the public comments. They have made him think. He wants to stand up for babies. He would like to see the Town pursue the ordinance and work with the Town Attorney to make it work. He did not intend this to be a neighbor spying on a neighbor. This was an approach that looked like a good way to stop what has been going on.

#### **PARK BOARD UPDATE:**

*Councilman Engbretson:* He stated that the Park Board met on Monday night and introduced Gretchen Engbretson for more information.

*Gretchen Engbretson, Park Board Member:* She stated that the ice rink has been very busy and successful. She thanked the Council for supporting it. It is maintained by volunteers, and they could use more help. The Park Board is now working on updating playground equipment. They would like to include some inclusive equipment. They are also working on native plantings and the Arbor Day grant for planting trees on boulevards.

#### **MAYOR'S REPORT:**

None

#### **CONSENT AGENDA:**

Motion- Mancuso; Second- Taylor; Vote- Unanimous: Motion passed to approve the Consent Agenda. Taylor recused himself from the kennel license vote.

**Kennel License:** Morgan & Shawna Taylor, 106 N. 6<sup>th</sup> St.

**Chicken Coop Permit:** Samantha Donaghy & Russell Price, 202 S 1<sup>st</sup> St.


**Town Licenses:** Man of the Woods LLC, Frontier Plumbing & Home Services, and Tru North Properties DBA Tru North Contractors

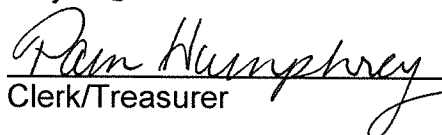
**Approval of Minutes:** Regular Meeting minutes from January 12, 2023.

**Claims:** Dated 01/13/23 – 02/09/23 totaling \$ 243,167.90.

#### **ADJOURN:**

Motion- Taylor; Second- Engbretson; Vote- Unanimous: Motion passed to adjourn the meeting.

  
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Mayor

  
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Clerk/Treasurer